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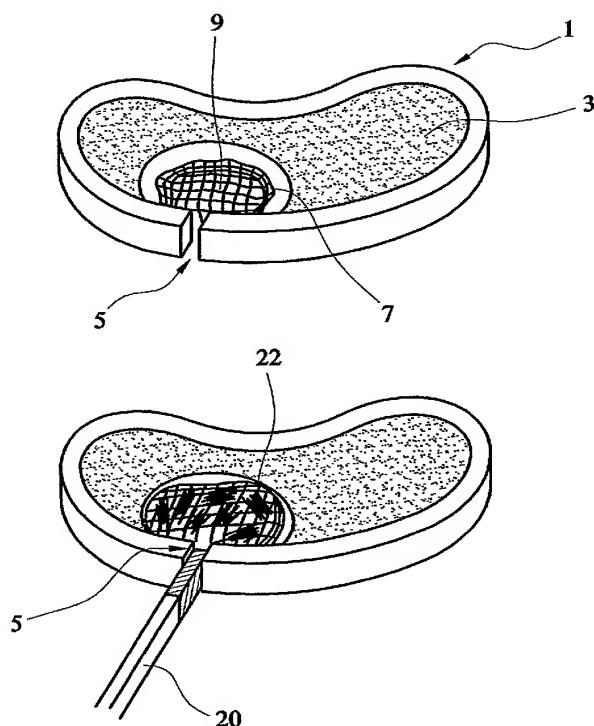
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(54) Title: POROUS IMPLANT FOR SPINAL DISC NUCLEUS REPLACEMENT

(57) Abstract: A spinal implant is provided in which the implant includes a porous component (7) and one or more filling elements (22) provided within the porous component. Tissue in-growth is promoted.



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## POROUS IMPLANT FOR SPINAL DISC NUCLEUS REPLACEMENT

This invention concerns improvements in and relating to implants, for instance spinal implants and more particularly, but not exclusively in relation to full or partial replacement 5 of the nucleus pulposus.

A number of surgical techniques are known with a view to addressing problems with intervertebral discs. Such techniques include the partial or complete removal of the nucleus pulposus or remains thereof. In other cases the entire disc is removed. The 10 subsequent treatment varies. In some cases the two vertebrae are fused together, for instance by tight packing of bone chips between the two. In some other case, an implant of some design is inserted into the space vacated. The implant may seek to provide some of the function of the disc or merely maintain the spacing of the vertebrae. Such treatments may be needed because of damage and/or disease.

15

In cases where only part of the nucleus has been lost or is to be replaced, generally, one or more incisions are made in the annulus of the disc. The necessary part of the nucleus is then removed through the opening created by the incisions. The implant itself is then inserted. The implant is inserted whole or may be inflated after insertion by introducing 20 hydrogel or the like. Once installed, the incisions are closed and sutured. The sutures are applied direct to the annulus itself with the sutures passing through the annulus on one side of the incision, bridging the incision and then passing through the annulus on the other side.

25 The success of such a procedure depends upon the long term ability of the implant to provided the desired spacing between vertebrae and the extent to which natural function of the disc is maintained.

30 The present invention has amongst its aims potentially to provide long term maintenance of the spacing between vertebrae. The present invention has amongst its aims potentially

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to provide better tissue ingrowth into and/or around the implant. The present invention has amongst its aims to maintain as far as possible natural function for the spine.

According to a first aspect of the invention we provide a spinal implant, the implant  
5 including a porous component and one or more filling elements provided within the porous  
component.

The implant may be a partial nucleus pulposus replacement. The implant may be a total  
nucleus replacement. Preferably the implant maintains the separation of the vertebrae  
10 which it is provided between. The implant may mimic the characteristics of a naturally  
occurring nucleus. Preferably the implant provides some or all of the resistance to  
compressive loads provided by a natural nucleus. The implant may be inserted anteriorly  
or posteriorly. The implant may be provided within a natural annulus and / or an artificial  
annulus.

15

The porous component may be a bag or other form of container. The porous component  
may have an opening to permit the insertion of the one or more filling elements.  
Preferably the opening is closable, for instance by one or more of folding, stitching,  
suturing, gluing, stapling or the like.

20

The porous container may be made of fabric, particularly a woven fabric. The fabric may  
be one or more of flat woven or circular woven, knitted, braided, embroidered or  
combinations thereof.

25 The fabric may include and/or be formed from one or more fibre materials. The fabric  
may include and/or be formed of one or more of polyester, polypropylene, polyethylene,  
glass fibre, glass, polyaramide, metal, copolymers, polylactic acid, polyglycolic acid,  
biodegradable materials, silk, cellulose or polycaprolactone.

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Preferably the pores in the porous component have at least one cross-sectional dimension that is less than the smallest cross-sectional dimension of the filling elements. Preferably the cross-sectional area of the pores is less than the minimum cross-sectional area of the filling elements. Preferably the filling elements cannot pass through the pores of the  
5 porous component.

The porous component may entirely surround the filling elements and/or encapsulate the filling elements. One or more apertures or gaps may be provided in the porous component, ideally to provide or assist fluid communication through the porous component or to assist  
10 it. Preferably a large number of apertures or gaps are provided in the material from which the porous component is formed, for instance a woven fabric. The apertures or gaps occurring in the porous component may be due to the manner of manufacture of the material from which it is formed or may be supplemented with further apertures or gaps. The supplementation may be provided by degradation and/or absorption of one or more  
15 materials forming the inner component. Where apertures or gaps are provided, preferably they have at least one cross-sectional dimension that is less than the smallest cross-sectional dimension of the filling elements. Preferably the cross-sectional area of the gaps or apertures is less than the minimum cross-sectional area of the filling elements. Preferably the filling elements cannot pass through the gaps or apertures of the porous  
20 component.

The porous component may be configured and/or formed of and / or provided with one or more materials intended to promote tissue growth, particularly tissue ingrowth through the porous component and/or between the porous component and one or more of the filling  
25 elements and/or between two or more of the filling elements. Tissue growth may be promoted by the material type, for instance polyester. Tissue growth may be promoted by the configuration, particularly the size and/or number of pores and/or gaps and/or apertures in the porous component. Tissue growth may be promoted by a chemical, for instance a pharmaceutical, provided as part of the porous component or associated therewith.

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One or more materials used in the porous component may be bio-absorbable. The bio-absorbable material may be used to decrease the amount of porous component present and/or positions at which the porous component is present and/or density at which the porous component is present overtime. The bio-absorbable material may restrain the

5 porous component in a first state, the bio-absorption of the material allowing the porous component to assume a second state. The second state may provide a greater internal volume for the porous component and/or greater porosity for the porous component and/or reduction in mass of the porous component and/or provide more space for tissue ingrowth.

10 Bio-absorbable material may be incorporate in the porous component by providing areas of bio-absorbable material and/or one or more fibres of bio-absorbable material. The porous component may be entirely bio-absorbable or only partially. Different materials having different rates of bio-absorption may be used for different areas and/or different fibres within the porous component. Slow, moderate and fast bio-absorption materials may be

15 used.

The one or more filling elements may be fibrous and/or formed of single filaments.

One or more of the one or more filling elements may include and/or be formed from one or

20 more fibre materials. One or more of the one or more filling elements may include and/or be formed of one or more of polyester, polypropylene, polyethylene, glass fibre, glass, polyaramide, metal, copolymers, polylactic acid, polyglycolic acid, biodegradable materials, silk, cellulose or polycaprolactone.

25 Preferably one or more filling elements that are porous and/or define voids within themselves and/or between parts of a filling element are provided. The pores and/or voids and/or apertures and/or gaps provided in or by the filling elements ideally provide fluid communication through the filling elements and/or there between. Preferably a large number of pores and/or voids and/or apertures and/or gaps are provided in the material

30 from which filling elements are formed. Preferably a large number of pores and / or voids

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and / or apertures and / or gaps are provided by one or more of the filling elements. Preferably a large number of pores and / or voids and / or apertures and / or gaps are provided within one or more of the filling elements by virtue of their structure.

- 5 One or more filling elements may be formed of unconstrained fibres. One or more filling elements may be formed of unbraided fibres. One or more filling elements of felt or felt-like material may be provided. One or more filling elements with interlaced fibres may be provided. One or more filling elements may be provided with aligned fibres. One or more filling elements may be provided with one or more groups of aligned fibres and / or one or
- 10 more non-aligned fibres and / or one or more groups of fibres on different alignments to the first. One or more filling elements with non-linear fibres may be provided. One or more filling elements with wavy and / or curved and / or zig zag fibres may be provided. One or more filling elements with fibres which act to space each other from one another may be provided. One or more filling elements with primary fibres having a first
- 15 alignment and secondary fibres on a different alignment, which serve to space the primary fibres from one another may be provided. One or more filling elements of cotton wool or like material may be provided.

One or more filling elements with fibres of two or more different cross sections may be

20 provided. The fibres of different cross sections may be linear and / or non-linear.

One or more filling elements with fibres provided in a first direction may be provided, with one or more restraining fibres or material. The restraining fibres and / or material may surround and / or enclose and / or be wrapped around and / or contact a plurality of fibres.

25 The restraining fibre or material may be provided as a band. The restraining fibres of material may be provided at the ends of the filling elements and / or at intermediate locations thereon.

One or more filling elements may be provided with peripheral fibres or material provided

30 around the filling element. The peripheral fibres or material may be wrapped around the

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filling elements in a spiral manner and / or criss-cross manner. The fibres or material may be provided in an anti-clockwise and / or clockwise manner. A fishnet of fibres may be provided around one or more filling elements.

- 5 One or more filling elements may be provided with pieces provided therein. The pieces may be intermixed with one or more fibres. The pieces may be spheres, beads, blocks or the like. The pieces may be integral with the fibres and / or connected thereto and / or free to move relative to the fibres. Preferably fibres are wrapped and / or extend around at least part of the periphery of the beads, ideally in a variety of directions. The pieces may be
- 10 linked together by a fibre or filament, particularly in the case of the series of spheres. The spheres may be surrounded by a mass of braided fibres. The masses of braided fibres may be linked by one or more fibres or filaments. Preferably the masses of fibres surround the spheres.
- 15 A single layer of filling elements may be provided within the porous component. Multiple layers of filling elements may be provided within the porous component. One or more intermingled filling elements may be provided within the porous component. The filling elements may be of linear configuration and / or curved and / or wavy. One or more spiral filling elements may be provided. One or more filling elements of substantially circular
- 20 cross-section may be provided. One or more filling elements with one or more flat surfaces may be provided. One or more filling elements of generally square and / or pentagonal and / or hexagonal and / or octagonal cross-section may be provided.

The pores and/or voids and/or apertures and/or gaps occurring in the filling elements and/or there between may be due to the manner of manufacture of the material from which it is formed or may be supplemented with further pores and/or voids and/or apertures or gaps. The supplementation may be provided by degradation and/or absorption of one or more materials forming the filling elements.

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The one or more filling elements may be configured and/or formed of one or more materials intended to promote tissue growth, particularly tissue ingrowth through one or more filling elements and/or between the porous component and one or more filling elements and/or between two or more of filling elements. Tissue growth may be promoted

5 by the material type, for instance polyester, included in one or more filling elements. Tissue growth may be promoted by the configuration, particularly the size and/or number of pores and/or gaps and/or apertures in one or more filling elements.

One or more materials used in one or more of the filling elements may be bio-absorbable.

10 The bio-absorbable material may be used to decrease the amount of one or more filling elements present and/or positions at which one or more filling elements is present and/or density at which one or more filling elements is present overtime. The bio-absorbable material may restrain one or more of the filling elements, or a part thereof, in a first state, the bio-absorption of the material allowing one or more filling elements, or a part thereof, 15 to assume a second state. The second state may provide a greater internal volume for one or more filling elements and/or greater porosity for one or more filling elements and/or reduction in mass of one or more filling elements and/or provide more space for tissue ingrowth.

20 Bio-absorbable material may be incorporate in one of more filling elements by providing areas of bio-absorbable material and/or some fibres of bio-absorbable material. One or more of the one or more filling elements may be entirely bio-absorbable or only partially. Different materials having different rates of bio-absorption may be used for different areas and/or different fibres within one or more filling elements. Slow, moderate and fast bio- 25 absorption materials may be used.

The first aspect of the invention may include any of the features, options or possibilities set out elsewhere in this document.

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According to a second aspect of the invention we provided a surgical technique in which, at least part of a spinal disc is removed and an implant is provided, the implant having a porous component and one or more filling elements provided within the porous component.

5

A part or the whole of a nucleus pulposus may be replaced. The implant may be inserted anteriorly and / or posteriorly.

Preferably the porous component is inserted through the same incision as is used to remove  
10 the nucleus material. Preferably the incision is only as large as needed for the nucleus material removal stage. The porous component may be folded and / or compressed for insertion into the intervertebral disc space. Preferably the one or more filling elements are absent from the porous component during insertion into the intervertebral disc space.

15 Preferably the one or more filling elements are introduced into the porous component within the intervertebral disc space. The one or more filling elements may be deployed from an applicator, for instance by extrusion therefrom.

Preferably the one or more filling elements are provided through the incision used to  
20 remove the nucleus material. Preferably the incision used for introducing the one or more filling elements is no larger than the incision necessary for the removal of the nucleus material.

Preferably the technique includes a first time in which the implant provides one or more  
25 characteristics of a naturally occurring disc by virtue of a non-biological mechanism, and a second time at which the implant provides one or more characteristics of naturally occurring disc by a combination of a non-biological mechanism and biological mechanism. Ideally, the biological mechanism is tissue in-growth. The technique may include a third time with substantially all of the one or more characteristics of a naturally occurring disc  
30 are provided by a biological mechanism. Preferably the transition from the mechanism at

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the first time to the second time and / or third time is due to bio-absorption of one or more of the materials forming the implant and particularly forming one or more filling elements thereon.

5 The second aspect of the invention may include any of the features, options or possibilities set out elsewhere in this document, including in the first aspect.

According to a third aspect of the invention we provide a spinal implant, the implant including one or more filling elements.

10

The third aspect of the invention may include any of the features, options or possibilities set out elsewhere in this document, including in the other aspects.

15 According to a fourth aspect of the invention we provided a surgical technique in which, at least part of a spinal disc is removed and an implant is provided, the implant including one or more filling elements.

20 The filling elements may be constrained by a part of the spinal disc which is not removed, for instance the annulus and/or nucleus material and/or a fissure closure device, particularly of the type disclosed in UK Patent Application No 0406835.9 of the applicant, filed 26 March 2004, the contents of which are incorporated herein by reference.

The fourth aspect of the invention may include any of the features, options or possibilities set out elsewhere in this document, including in the other aspects.

25

Various embodiments of the invention will now be described, by way of example only, and with reference to the accompanying drawings in which:-

Figure 1 shows a perspective view of a disc featuring part of a device according to an embodiment of the present invention;

30 Figure 2 shows the view of Figure 1 with the device near completion;

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Figure 3 shows the dispensing of one embodiment of the filling using one embodiment of an applicator;

Figures 4a to 4c show other embodiments of fillings;

Figure 5 shows a further embodiment of a filing in perspective view;

5 Figures 6a and 6b shows still further embodiments of filings in perspective view;

Figure 7 shows yet another embodiment of a filling;

Figure 8 shows an embodiment of the invention including beads;

Figure 9 shows a further bead incorporating embodiment of the invention; and

Figure 10a to 10c show different stages in the life of a device according to the invention,

10 from initial point of deployment, through an intermediate time to a much later time after deployment.

Each of the intervertebral discs within a spine function as a spacer, as a shock absorber, and to allow motion between adjacent vertebrae. The height of the disc maintains the separation distance between the vertebral bodies. There are three functions that the intervertebral disc performs:-

• Proper spacing - Allows the intervertebral foramen to maintain its height, allowing the segmental nerve roots, room to exit each spinal level without compression.

20

• Shock absorption - Not only allows the spine to compress and rebound when the spine is axially loaded (during such activities as jumping and running) but also to resist the downward pull of gravity on the head and trunk during prolonged sitting and standing.

25

• Elasticity (of the disc) Allows motion coupling, so that the segment may flex, rotate, and laterally bend all at the same time during a particular activity. This would be impossible if each spinal segment were locked into a single axis of motion.

The intervertebral disc consists of four distinct parts. These are the nucleus pulposus,

30 annulus fibrosus and two end plates. It should be noted that although these four sections

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are very much distinct in their own right the boundaries between them are not as distinct. Most investigators tend to ignore the end plates and dismiss them as merely as the barrier between the vertebrae and the parts of the disc which allow motion of the spine. However, the end plates are important in completing the structure of the disc and creating some of the  
5 boundary conditions that define the behavior of the disc.

From around the 20th year of a persons life, the discs become completely avascular, although they show high metabolic turnover. The water content of the discs will decrease the older the person gets.

10

#### **End Plates**

The end plates are composed of hyaline cartilage. This is basically a "hydrated Proteoglycan gel, reinforced by Collagen Fibrils" - Ghosh; *The Biology of the Intervertebral Disc*. CRC Press, ISBN 084936711523. As stated, the boundary between the  
15 annulus and end Plate is not a distinct one, under a microscope the two parts merge together, with a region which is neither one tissue nor the other.

#### **Annulus**

The annulus is the outer ring of the disc. A strong, laminated structure of opposed layers of  
20 Collagen fibres. An annulus typically comprises around 12 laminae, with 6 provided in each direction of fibre travel. The layers are at an angle of approximately 30° on every other layer, with 30° in the opposite direction on the remaining layers. The functions the annulus performs determine the need for this type of structure. No matter which direction the vertebrae moves, there will always be some fibres in tension and some in compression.  
25 Thus, the annulus will always be acting using some fibres to stretch (they will resist stretch like an elastic band) and pull the spine back into the correct posture.

The annulus has overlapping, radial bands, not unlike the plies of a radial tyre, and this allows torsional stresses to be distributed through the annulus under normal loading,  
30 without rupture. One study suggested that the posterior part of the annulus is the weaker

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side, so more susceptible to damage - Tsuji; Structural variation of the annulus fibrosis. *Spine 18 pp204-210, 1993.* The annulus is the strongest part of the disc.

### Nucleus

5 The nucleus at the centre of the disc, is a highly hydrated gel of Proteoglycans. In children and young adults, the water content can account for up to 80% of its weight - Ghosh. This gel material is a very thick fluid that is dense enough to be able to be torn. It serves the twin purposes of both direct load bearing and, by being fluid in nature, being able to change shape under loading to distribute the load to the annulus. The nucleus may only  
10 bear half the load of the FSU (functional spinal unit) with the annulus carrying the rest - Finneson; Low back pain. ISBN 0-397-50493-4, 1992. It is this shared loading that allows the disc to continue to operate even after the nucleus has been damaged.

Degeneration and/or herniation and/or damage to a disc can occur during a patient's life.

15 Degenerative disc disease (DDD) is the process of a disc losing some of its function, due to a degenerative process, and is a very common and natural occurrence. At birth the disc is comprised of about 80% water. As ageing occurs, the water content decreases and the disc becomes less of a shock absorber, the proteins within the disc space also alter their  
20 composition.

The relationship between degeneration and pain is not a clear one. Theories to explain why some degenerative discs are painful include:

25 Injury : A tear in the annulus may release nucleus material, which is known to be inflammatory.

Nerve Ingrowth into Discs : Some people seem to have nerve endings that penetrate more deeply into the outer annulus, than others, and this is thought to make the disc susceptible to becoming a pain generator.

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Loss of Height : A degenerative disc may lose height as the water content lowers. This may cause the disc to bulge outwards - pressurising the nerve roots and thus causing pain. In addition, this loss in height will have other effects that can also be pain generating:

5 The disc biomechanics will alter. Normally the nucleus pressurizes the annulus forcing the fibres into tension. However in these cases the nucleus will lose this ability and the annulus itself will be forced to carry the compressive load at that level in the spine. This will increase the stress in the annulus.

10 The load distribution through the disc will be affected by this. When the uniform distribution becomes more haphazard the load will not be carried in an even manner throughout the disc.

Alteration in the disc biomechanics will affect both the patient's range of motion and alter the position of the instantaneous axis of rotation in normal movements.

The result of these factors will usually mean increased loading on the facet joints that may in turn start to degenerate and become symptomatic.

15

What ever the reason behind the degeneration causing the pain, treatment to improve the position and the patient's life is important. The treatment options are discussed in more detail below.

20 A herniated disc is similar to a prolapsed one, in that there is a bulge in the disc itself. However, the disc will not have collapsed in the same way. The injury is thought to be through a combination of a degenerative process and mechanical loading. The stages of disc herniation - Ibrahim; ; Colorado spine institute; <http://www.coloradospineinstitute.com> 2004; are disc degeneration, perhaps due to 25 chemical changes associated with aging cause the disc to weaken; formation of a bulge due to this localised failure of the annulus; progression of the condition can cause the nucleus to protrude out as a herniation; the bulge will press against the nerves in the spinal canal and cause pain that the body sees as coming from the legs; further progression results in extrusion as the gel-like nucleus pulposus breaks through the annulus fibrosis, but remains

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within the disc; further progression may result in the nucleus pulposus breaking through the annulus fibrosus and lying outside the disc in the spinal canal, a sequestered disc.

Whilst most patients with a herniation will improve without surgery in some case surgery 5 is necessary. If surgery is required then usually the treatment will be to remove part, or all of the herniated disc, such that the nerve roots are no longer impinged.

#### **Surgical treatment of Degenerative and Herniated Discs**

When a disc that is showing signs of degeneration or herniation or disease or damage 10 become painful a surgeon may often operate. Treatments that may be conducted include:

1. Partial discectomy – removal of local annular material to the site of a herniation.
2. Partial nucleotomy – removal of local nucleus material close to the site of the herniation.
- 15 3. Discectomy and fusion – removal of the entire disc and fusion of the disc space, used in more serious cases.
4. Other treatments such as a disc replacement or nucleus replacement – these are new treatments used as an alternative to fusion.

20 The present invention is intended to be particularly useful as part of the following treatments:

- *Nucleotomy* to replace the lost or removed nucleus material by inserting the implant to provide a nucleus material equivalent alongside the remaining nucleus material;
- 25 • *Artificial Disc Replacement* to restore a functional nucleus by inserting the implant in conjunction with an annulus replacement;
- *Artificial Nucleus Replacement* to restore a functional nucleus by inserting the implant.

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With reference to Figure 1, an intervertebral disc 1 is shown with part of the nucleus 3 removed through an incision 5. Following removal of the material, the first part of the implant has been inserted. The first part is a fabric bag 7 with an opening 9. The bag 7 is empty and hence easily reduced to a small size at this stage so as to allow easy insertion through the incision 5. The incision 5 is of the smallest size necessary to remove the nucleus material. This comes with prior art systems where the incision 5 needed for the nucleus removal needed to be enlarged to allow enough room to deploy the implant. The opening 9 into the bag is kept close to the incision 5.

10 The bag 7 is formed in such away as to offer the necessary strength and structural properties to constrain the filling it is to receive, but does so whilst being open to the passage of fluid through it, both into and out of its inside. The significance of this will be described in greater deal below.

15 In Figure 2, the next stage of the implants formation is shown. Using an applicator 20, the second part of the implant, the filling 22 is pushed into the bag 7 through the opening 9. The filling 22 is of relatively small cross-section and so does not necessitate any enlargement of the incision 5 either. Sufficient filling 22 is introduced into the bag 7 to give it the desired properties discussed in more detail below. As can be seen, however, the 20 filling 22 causes the bag 7 to generally assume the profile of the space in the nucleus 3.

The filing 22 is made of one or more material which encourage tissue growth, such as polyester fibre.

25 Such a bag can be provided together with (as in used alongside but discrete from) or linked to or as an integral part of the type of device disclosed in applicant's UK patent application no 0406835.9 filed 26 March 2004, the contents of which are incorporated herein by reference with respect to that device.

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An implant according to the present invention is suitable when a procedure such as a nucleotomy has been conducted as the disc will have lost material from the nucleus. This may cause a loss in nucleus function and/or a loss in disc height. The implant thus provides a partial artificial and so provides treatment in these cases.

5

An important part of the present invention is the filling 22 used and structure of the bag 7.

In disc / nucleus replacement procedures, the prior art approach has been to provide a non-biological mechanism for mimicking the disc's natural function throughout the life of the 10 device. As far as practically possible the device has been isolated from its biological surrounds. The present invention aims to provide a phased transition from a solution based on a non-biological mechanism to a combination of biological and non-biological mechanisms and potentially even on to a predominantly or even exclusively biological mechanism.

15

This aim can be achieved by careful design of the filling 22 and bag 7 to facilitate rather than resist tissue ingrowth.

When exposed to alien materials which cannot be expelled or broken down, the bodies 20 reaction is to try and isolate the material. Tissue thus grows around the material.

In the past, the continuous nature of the implant has meant that the tissue has grown only around the outside of the implant. In the case of inflatable balloons, this is because the outer which constrains the inflation, by its very nature, also prevents tissue growth inside. 25 Similarly metal devices prevent tissue ingrowth because of the material they are made from. Other implants have used an outer which is continuous in nature and so only a surface layer of tissue around the very outside may have developed. Either because to the nature of the implant or because of active steps taken, no tissue ingrowth within the implant occurs. In some cases, steps to actively avoid tissue ingrowth have been taken, for

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instance to prevent the tissue interfering with the operation of the non-biological mechanics of the device.

The present invention takes a fundamentally different approach and actively seeks tissue  
5 ingrowth for the implant.

Firstly, the bag 7 is provided in such a way that there are significant openings/gaps  
between the fibres forming the bags. Fluids can thus readily pass through the bag 7 in  
either direction. As a result the outer of the implant facilitates tissue ingrowth through  
10 itself.

Secondly, and with reference to the Figure 2 embodiment, the filling 22 consists of groups  
of fibres collected together in an unconstrained, unbraided mass. The elongate nature of  
the fibres suits them to alignment within the applicator 20. Some alignment is retained  
15 within the bag 7, but generally the result is a filling 22 formed of an open mass of fibres.

Such a filling 22 of unconstrained and unbraided polyester filaments or fibres initially  
occupies a small volume in the nucleus. Following implantation, however, tissue ingrowth  
into the filling 22 occurs. The open nature of the mass of fibres and material of the fibres  
20 promotes this. With time, the tissue ingrowth tends to surround each fibre individually, as  
the tissue is able to reach each individually. Thus each individual fibre is alien material to  
be isolated by surrounding. If densely packed fibres are provided, the tissue growth is  
again restricted to the outside as the fibres are seen as an integral mass by the tissue. The  
open fibres of the present invention in effect act as a scaffold. As this growth progresses, it  
25 will cause the volume of the filling 22 and hence the bag 7 to swell to fill the available  
space in the nucleus.

The lack of restriction on the tissue ingrowth and the free access for fluids into and out of  
the bag 7 and filling 22 should mean that the tissue which grows is similar in composition  
30 and hence properties to the undisturbed nucleus material that surrounds it.

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The swelling of the bag 7 should restore some of the disc height that has been lost as the disc failed.

5 In theory, during the earlier stages of degenerative disc disease, the idea of refilling the nucleus with scaffolding polyester fibre could act as a permanent treatment. At the very least, it would be expected to improve the patient's condition in the medium term delaying a more serious procedure. In the meantime, all normal treatment options would still be able to be used on the patient.

10

The applicator 20 is illustrated in more detail in Figure 3, in conjunction with a different form of filling 30, to the filling 22 used in the Figure 2 embodiment. In this case, rather than being a mass of fibres in an unconstrained form, the filling 30 is provided in the form of a number of discrete pads 32 of felt like material 34. Felt and similar materials used the 15 natural interlacing of their fibres to form an open porous structure. This can be supplemented by needling to increase the interlacing and/or openness of the structure if desired.

20 The applicator 20 consists of a tube 36 which holds the pads 32. Under the control of the surgeon a plunger 38 is advanced in the tube 36 to push the pads 32 out into the bag 7 within the disc. Overtime, the pads 32 expand as tissue grows within and around them. Different applicator cross-sections can be used to deploy different fillings.

25 Figures 4a, 4b and 4c illustrate a number of alternative forms of filling 22 in unconstrained, unbraided form. Figure 4c shows a series of generally aligned fibres 40 which are non-linear in nature. The waves built into the fibres 40 serve to space individual fibres 40 from one another. The result is a mass of fibres 40 with substantial voids 42. Figure 4b shows a modification, in which a series of secondary fibres 44 are provided with a different orientation to the primary fibres 40. The difference in orientation resists 30 pressures which would otherwise cause the voids 42 between the fibres to be reduced.

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Figure 4c shows a mass of fibres 46 in a form more closely approaching that of a felt or cotton wool material. A very large number of different orientations are provided and thus serve to maintain the spacing against compression in a wide variety of directions.

- 5 The fibre could be provided from staple fibre, potentially subsequently chopped into short lengths. The fibre could be used as supplied or be modified before or after chopping, potentially to provide braiding or other restraining surround. It is possible to use fibres in form of single filaments and/or filaments twisted together and/or braided together.
- 10 Figure 5 shows a further filling form in which primary fibres 50 of a large cross-section are mixed with secondary fibres 52 of a smaller cross-section. The differences in cross-section again help to maintain the voids 54 within the filling.

Figures 6a and 6b illustrate examples of a more structured filling 60. In the first case, 15 Figure 6a, the majority of the fibres 62 are provided along a first alignment. To assist in keeping the alignment of the fibres 62 during and after deployment, a limited number of fibres 64 are wrapped around the fibres 62 to maintain them as bundles. The bundles are still open, however, and have significant voids. In the Figure 6b form, the fibre bundle is 20 chopped by a hot blade and this melts part of the ends and joins them together upon cooling due to mass 66.

The Figure 7 embodiment is a still more structured embodiment of the filling 70. An outer layer of criss-cross fibres 72 is provided so as to maintain the inner fibres 74 in the desired position. The inner fibres 74 are a mixture of large 76 and small 78 fibres. By potentially 25 providing the fibres 76, 78 on a number of slightly different alignments a more open structure with large voids is provided. The large gaps in the outer layer of criss-cross fibres 72 means that there is no interference with tissue ingrowth, but these fibres can be provided with a degree of stiffness to assist deployment and positioning of the filling 70 within the space in the bag which surrounds it. A series of lengths of such filling 70 can be 30 used in a single bag to give the desired overall structure.

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In Figure 8, the fibres 85 within a bundle are spaced and provided on a variety of alignments by the inclusion of a number of spherical beads 87.

- 5 Finally in Figure 9, a series of beads 90 are provided linked together by a fibre 92. The beads are each surrounded by a mass of fibres 94 braided on to form a mass. The braided mass 94 surrounds each of the beads 90 like a sleeve. Again the filling itself is open and promotes tissue growth.
- 10 In many of the above cases, the desired open structure is not only provided by individual groups of fibres, but also by the interaction between individual groups of fibres and the voids between them that they define.

In all of the above embodiments, and in the invention in general, the provision of an open structure can also be assisted by the careful use of different materials for different parts of the filling.

At the time of deployment, Figure 10a, the bag 100 is formed of a number of fibres 102 woven together to provided the necessary structure for containing the filling 104. The filling 104 itself is provided in the form of a series of wavy fibres of a first size 106 and second size 108, together with spacing fibres 110 which assist in maintaining the open position of the first size 106 and second size 108 fibres under compression. The result is an open structure with substantial gaps in the bag 100 to allow fluid communication through the bag 100 and substantial voids 114 between the fibres 106, 108, 110.

25 Six months or so after deployment, Figure 10b, the position has changed. Substantial amounts of tissue ingrowth has occurred. The tissue ingrowth serves in effect to provide nucleus material which resists compression of the nucleus and filling 104. The spacing fibres 110 are no longer required, therefore, having served their function of resisting  
30 compression of the fibres 106, 108 during the early days of the implant.

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By providing the spacing fibres 110 from a bio-absorbable material which is relatively quickly absorbed, within 6 months or so, the spacing fibres 110 are removed from the equation. The tissue they served as a scaffold for usefully remains, but the fibres 110 5 themselves have gone in most places. A few remains 118 of such fibres 110 may remain. As a result of these fibres 110 going, there is no restriction on the expansion of the voids 114 by the spacing between fibres 106, 108 increasing. The tissue growth itself provides the expansive pressure for this to happen.

10 The non-bioabsorbable fibres 102 of the bag 100 remain, as do the fibres 106, 108 to provide assistance to the overall structure.

Figure 10c shows the position some 2 years or so after deployment. Yet further tissue growth has occurred and the regenerated tissue now provides the majority of the nucleus 15 function. With this mainly biological provision of the necessary structure, there is less need for the fibres 106, 108. As the fibres 106 are also provided from a bio-absorbable material, these too are disappearing. Different time periods for bio-absorption to occurred are possible through selection of the material used. The removal of the fibres 106 allows the remaining fibres 108 to expand still further.

20 So as to accurately gauge the size of bag required and amount of filling needed, it is possible to measure the inflated volume of an inflatable bag inserted into the space vacated by the removed nucleus material.

25 As described in the previous embodiments, the implant is generally in the form of a bag and filling. However, in certain case it may be possible to use the filling without a bag. This is particularly the case where the removal of the disc material to form the void which needs filling is well defined, for instance due to its being bounded by the natural annulus and/or sound nucleus material.

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In such cases, the benefits according to the present invention are still provided due to the different approach to the replacement of the nucleus material taken through its replacement by fibres. Again the present invention aims to provide a phased transition from a solution based on a non-biological mechanism to a combination of biological and non-biological mechanisms and potentially even on to a predominantly or even exclusively biological mechanism.

5 Fibres of the types, materials and configurations described above can be used in this embodiment. Once again, when exposed to such alien materials the body's reaction is to  
10 try and isolate the material by providing tissue growth around it.

**CLAIMS:**

1. A spinal implant, the implant including a porous component and one or more filling elements provided within the porous component.  
5
2. The implant of claim 1 in which the implant is a partial nucleus pulposus replacement or a total nucleus replacement.
- 10 3. The implant of claim 1 or claim 2 in which the porous component is a bag or other form of container having an opening to permit the insertion of the one or more filling elements.
- 15 4. The implant of any preceding claim in which the porous container is made of fabric, particularly a woven fabric.
5. The implant of any preceding claim in which the pores in the porous component have at least one cross-sectional dimension that is less than the smallest cross-sectional dimension of the filling elements.  
20
6. The implant of any preceding claim in which the porous component is configured and/or formed of and / or provided with one or more materials intended to promote tissue growth, particularly tissue ingrowth through the porous component and/or between the porous component and one or more of the filling elements and/or between two or more of the filling elements.  
25
7. The implant of any preceding claim in which one or more materials used in the porous component is bio-absorbable.

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8. The implant of any preceding claim in which the bio-absorbable material is used to decrease the amount of porous component present and/or positions at which the porous component is present and/or density at which the porous component is present overtime.
- 5 9. The implant of any preceding claim in which the bio-absorbable material restrains the porous component in a first state, the bio-absorption of the material allowing the porous component to assume a second state.
- 10 10. The implant of any preceding claim in which the one or more filling elements is fibrous.
- 15 11. The implant of any preceding claim in which one or more filling elements that are porous and/or define voids within themselves and/or between parts of a filling element are provided.
- 20 12. The implant of any preceding claim in which one or more filling elements are formed of unconstrained fibres and/or unbraided fibres and/or interlaced fibres.
13. The implant of any preceding claim in which one or more filling elements are provided with aligned fibres.
- 25 14. The implant of any preceding claim in which one or more filling elements are provided, for instance wavy and/or curved and/or zig zag fibres.
15. The implant of any preceding claim in which one or more filling elements with fibres which act to space each other from one another are provided.
16. The implant of any preceding claim in which one or more filling elements with fibres of two or more different cross sections are provided.

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17. The implant of any preceding claim in which one or more filling elements with fibres provided in a first direction are provided, with one or more restraining fibres or material which surround and / or enclose and / or be wrapped around and / or contact a plurality of fibres.

5

18. The implant of any preceding claim in which one or more filling elements are provided with peripheral fibres or material provided around the filling element, the peripheral fibres or material being wrapped around the filling elements in a spiral manner and / or criss-cross manner.

10

19. The implant of any preceding claim in which one or more filling elements are provided with pieces provided therein, the pieces being intermixed with one or more fibres.

15

20. The implant of any preceding claim in which the pieces are spheres, beads, blocks or the like.

20

21. The implant of any preceding claim in which the pores and/or voids and/or apertures and/or gaps occurring in the filling elements and/or there between are due to the manner of manufacture of the material from which it is formed or are supplemented with further pores and/or voids and/or apertures or gaps.

25

22. The implant of any preceding claim in which the one or more filling elements are configured and/or formed of one or more materials intended to promote tissue growth, particularly tissue ingrowth through one or more filling elements and/or between the porous component and one or more filling elements and/or between two or more of filling elements.

30

23. The implant of any preceding claim in which one or more materials used in one or more of the filling elements are bio-absorbable and the bio-absorbable material is used to decrease the amount of one or more filling elements present and/or positions at which one

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or more filling elements is present and/or density at which one or more filling elements is present overtime.

24. The implant of any preceding claim in which the bio-absorbable material restrains  
5 one or more of the filling elements, or a part thereof, in a first state, the bio-absorption of  
the material allowing one or more filling elements, or a part thereof, to assume a second  
state, the second state providing a greater internal volume for one or more filling elements  
and/or greater porosity for one or more filling elements and/or reduction in mass of one or  
more filling elements and/or provide more space for tissue ingrowth.

10

25. A surgical technique in which, at least part of a spinal disc is removed and an  
implant is provided, the implant having a porous component and one or more filling  
elements provided within the porous component.

15 26. A technique according to claim 25 in which the porous component is inserted  
through the same incision as is used to remove the nucleus material and the incision is only  
as large as needed for the nucleus material removal stage and the one or more filling  
elements are provided through the incision used to remove the nucleus material, the  
incision used for introducing the one or more filling elements being no larger than the  
20 incision necessary for the removal of the nucleus material.

27. A technique according to claim 25 or claim 26 in which the one or more filling  
elements are introduced into the porous component, with the porous component already  
within the intervertebral disc space.

25

28. A technique according to any of claims 25 to 27 in which the technique includes a  
first time in which the implant provides one or more characteristics of a naturally occurring  
disc by virtue of a non-biological mechanism, and a second time at which the implant  
provides one or more characteristics of a naturally occurring disc by a combination of a  
30 non-biological mechanism and biological mechanism.

-27-

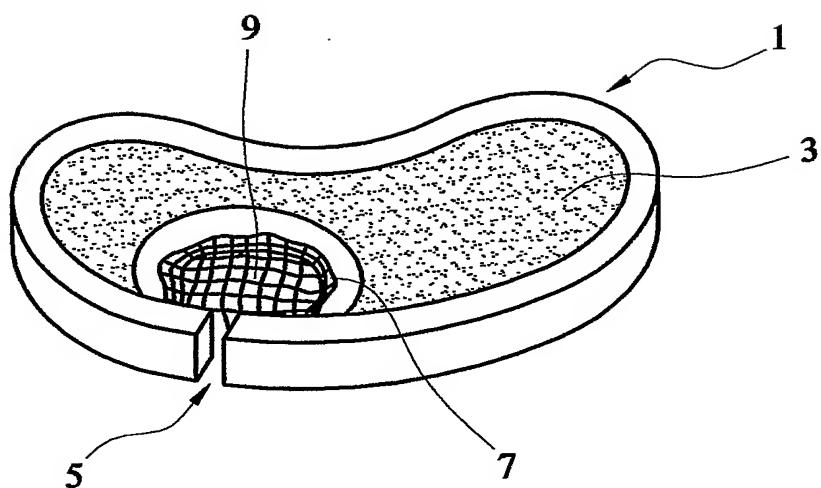
29. A technique according to claim 28 in which the technique includes a third time with substantially all of the one or more characteristics of a naturally occurring disc are provided by a biological mechanism.

5

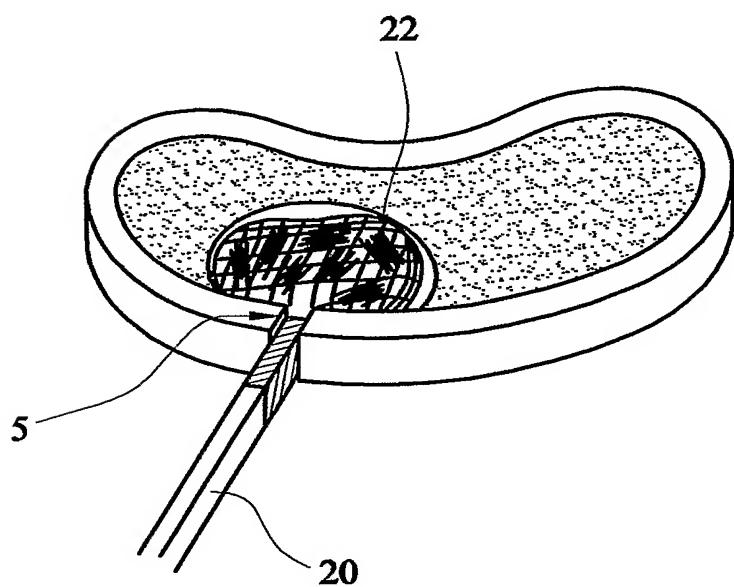
30. A technique according to claim 28 or claim 29 in which the transition from the mechanism at the first time to the second time and / or third time is due to bio-absorption of one or more of the materials forming the implant and particularly forming one or more filling elements thereon.

10

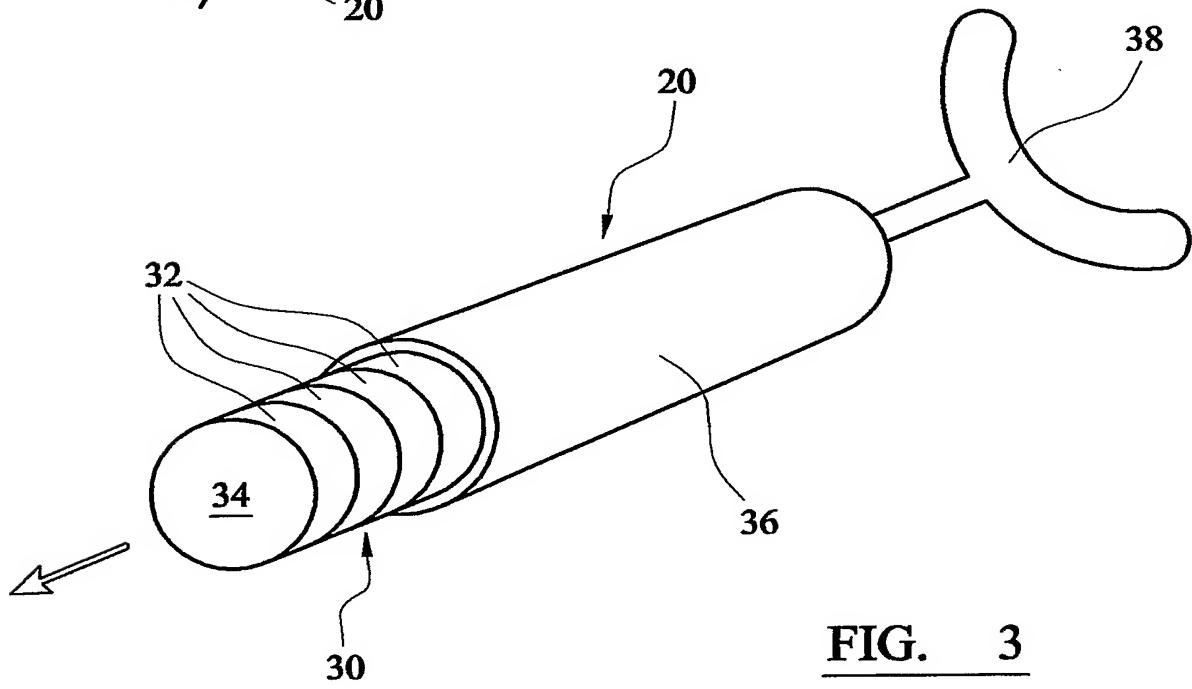
-1/5-



**FIG. 1**



**FIG. 2**



**FIG. 3**

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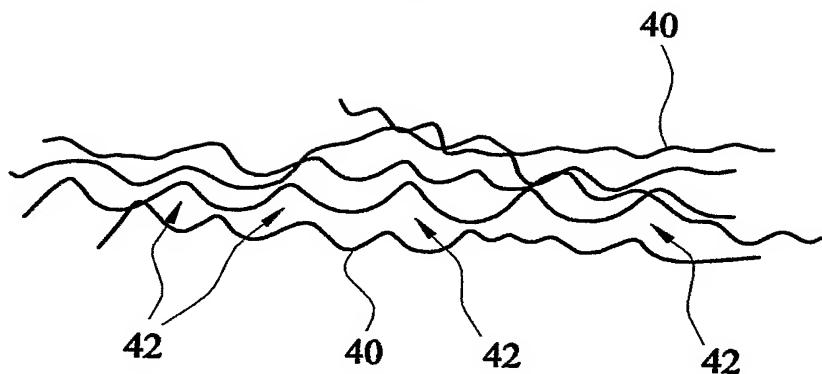


FIG. 4a

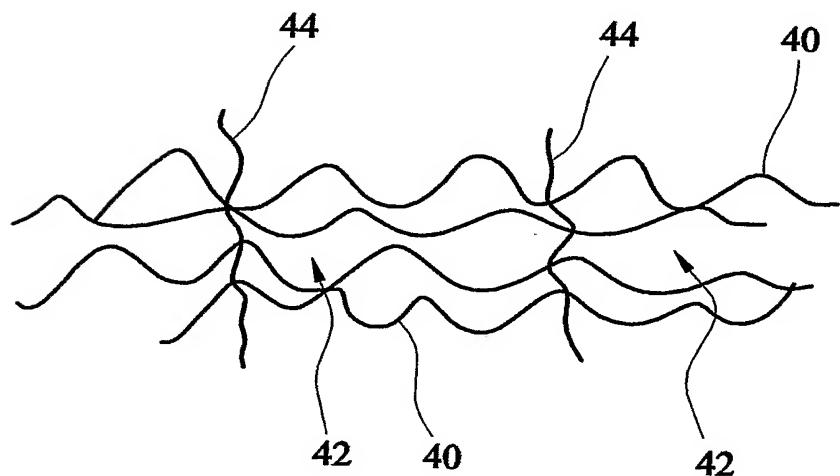


FIG. 4b

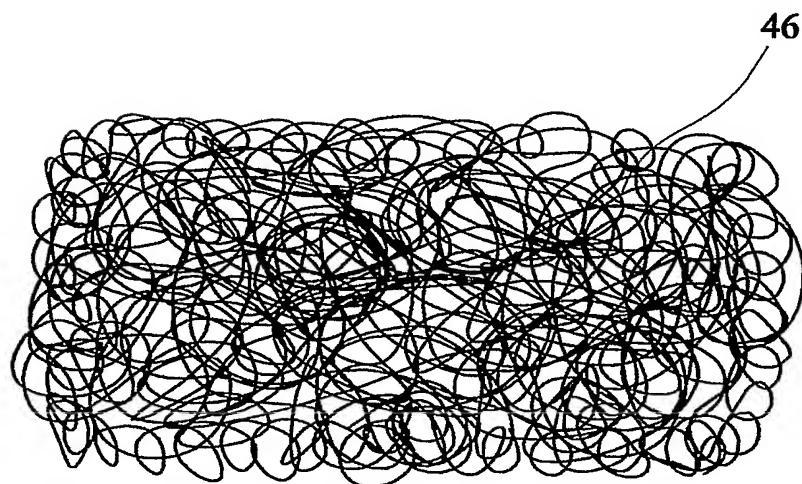


FIG. 4c

-3/5-

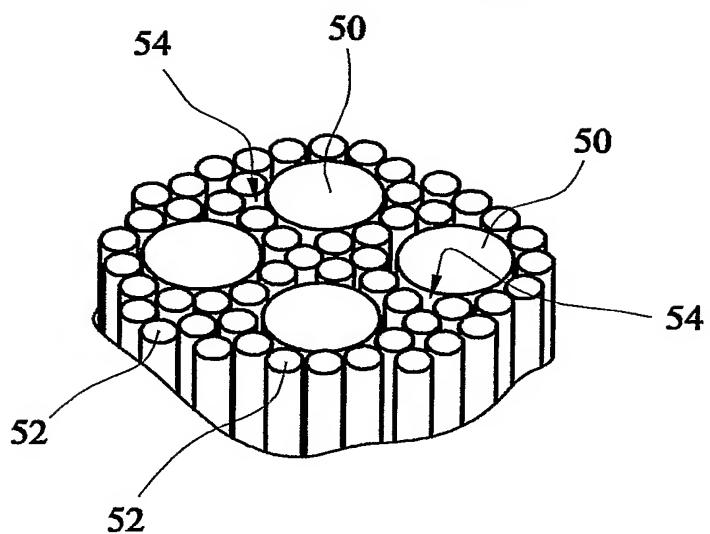


FIG. 5

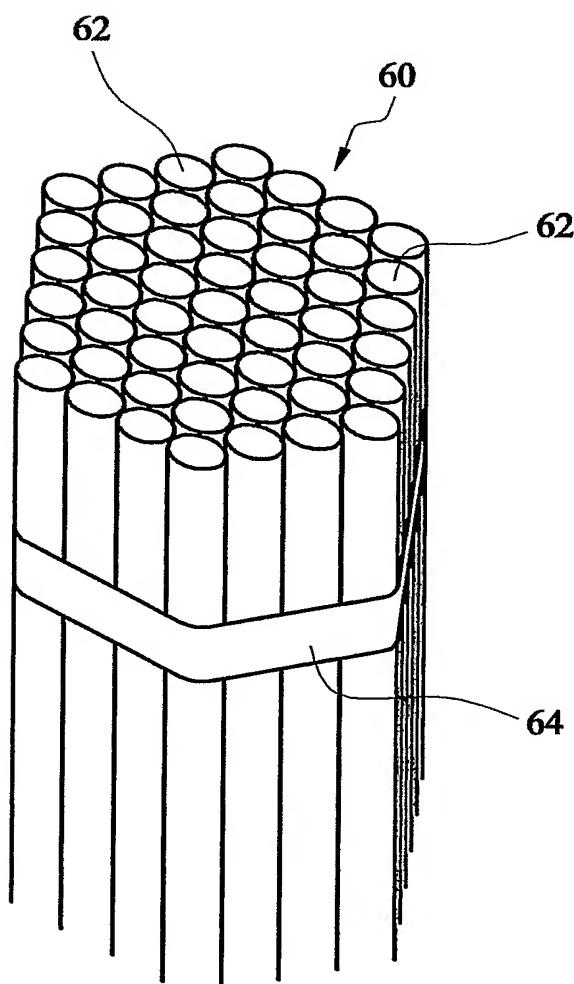


FIG. 6a

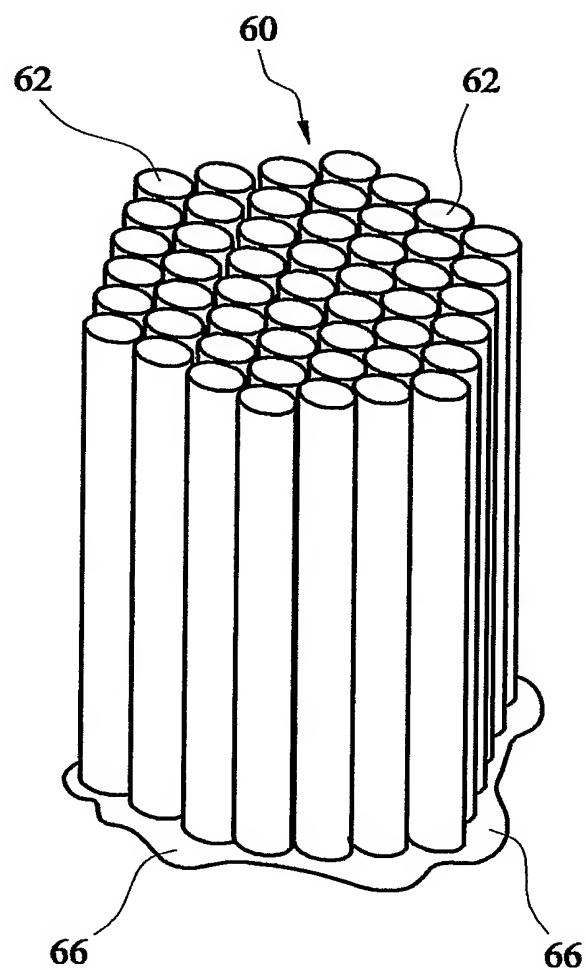


FIG. 6b

-4/5-

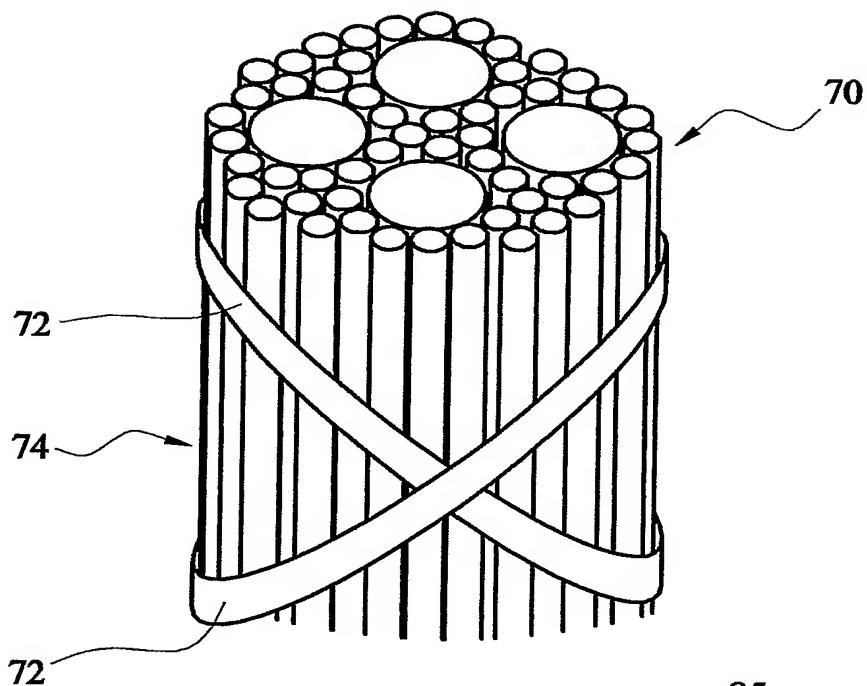


FIG. 7

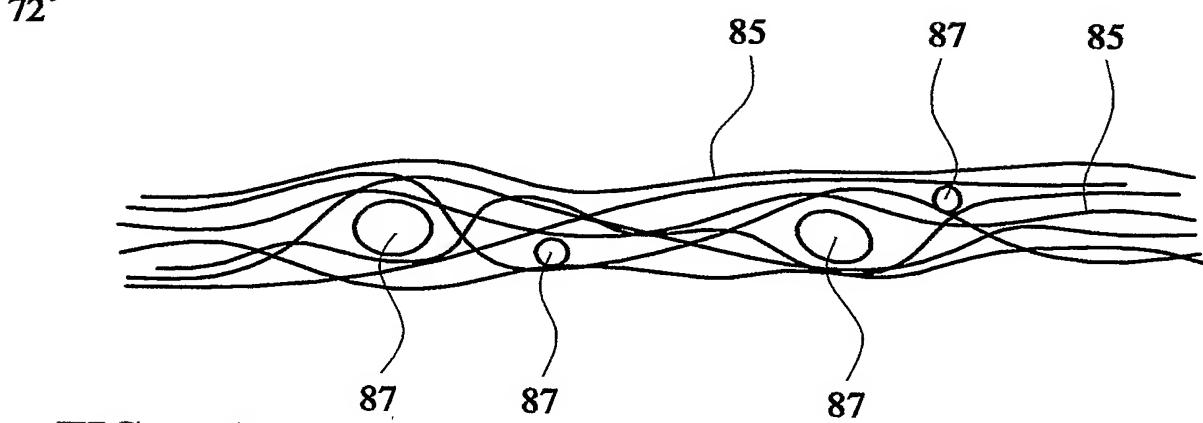


FIG. 8

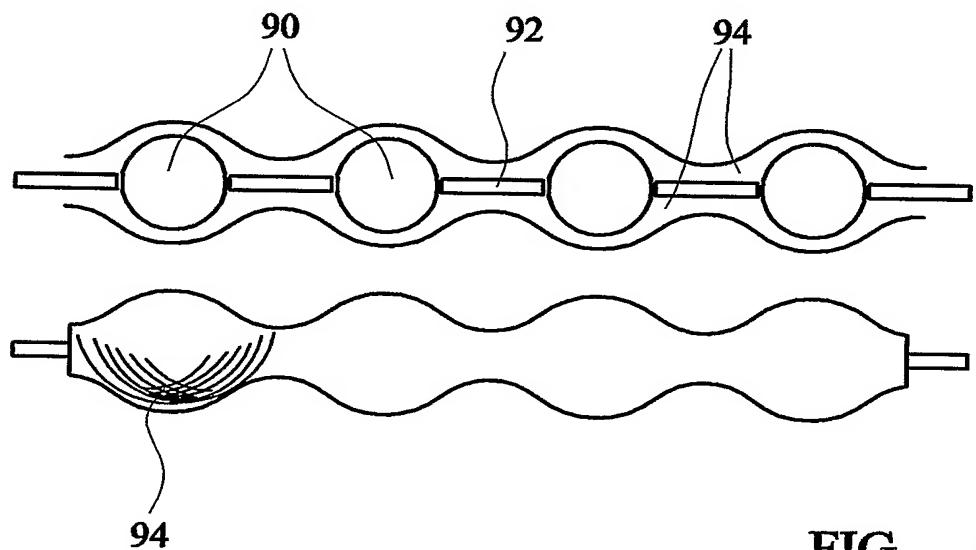
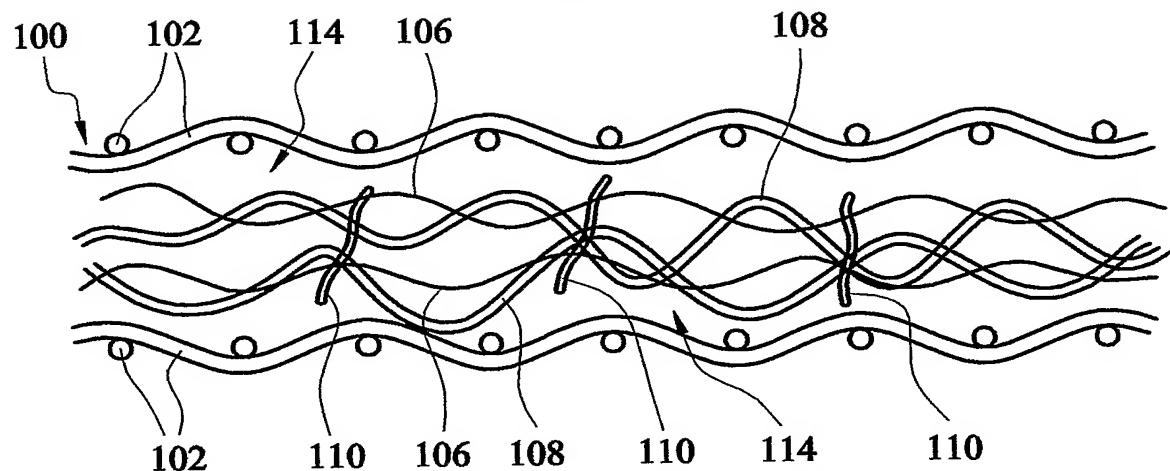
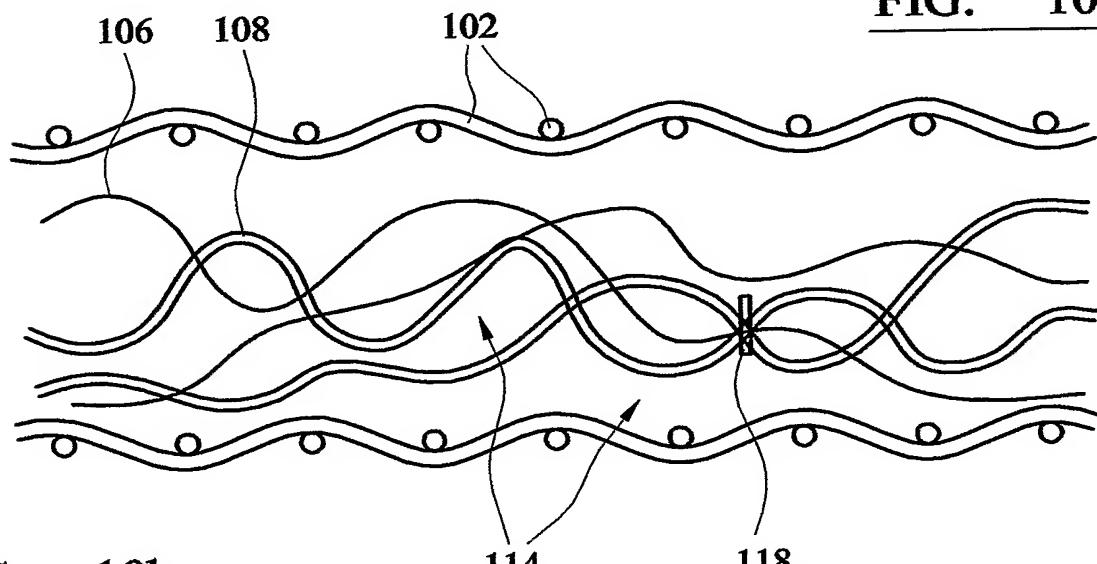


FIG. 9

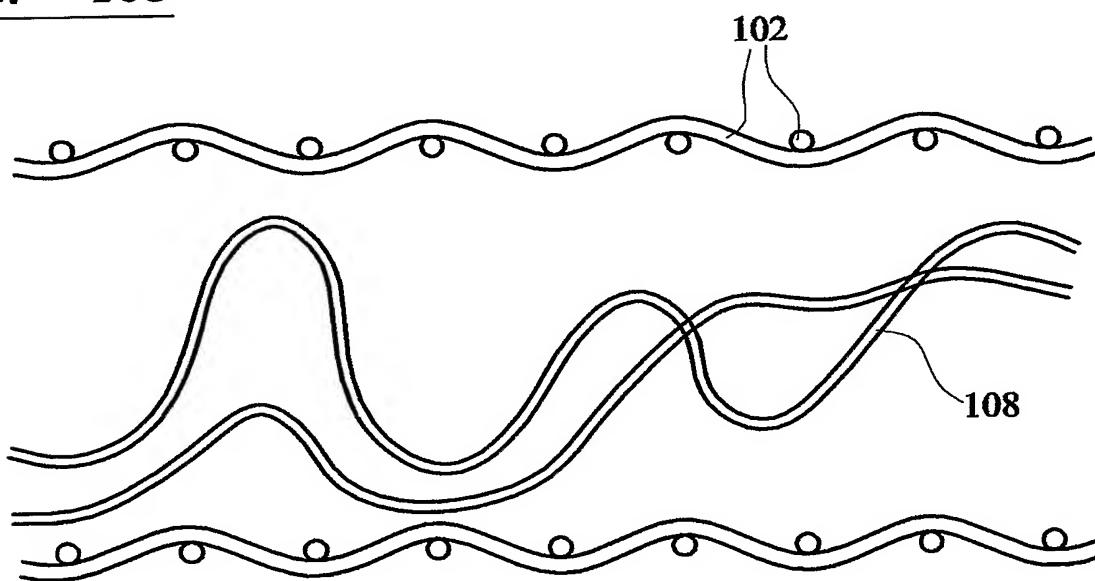
-5/5-



**FIG. 10a**



**FIG. 10b**



**FIG. 10c**

# INTERNATIONAL SEARCH REPORT

PCT/GB2005/001179

A. CLASSIFICATION OF SUBJECT MATTER  
IPC 7 A61F2/44 A61F2/46

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)  
IPC 7 A61F

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category <sup>a</sup>	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 92/10982 A (PFIZER HOSPITAL PRODUCTS GROUP, INC) 9 July 1992 (1992-07-09) page 1, lines 6-10 page 9, line 9 - line 18 page 21, line 1 - page 25, line 30 ----- EP 0 621 020 A (SULZER MEDIZINALTECHNIK AG) 26 October 1994 (1994-10-26) page 2, line 35 - page 5, line 4 ----- US 6 093 205 A (MCLEOD ET AL) 25 July 2000 (2000-07-25) column 1, line 63 - column 2, line 11 column 3, line 9 - line 24 ----- -/-	1-5,11, 21 1-5,10, 11,15, 19-21 1,4-8,23

Further documents are listed in the continuation of box C.

Patent family members are listed in annex.

<sup>a</sup> Special categories of cited documents :

"A" document defining the general state of the art which is not considered to be of particular relevance  
"E" earlier document but published on or after the international filing date  
"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)  
"O" document referring to an oral disclosure, use, exhibition or other means  
"P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the International filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention  
"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone  
"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.  
"&" document member of the same patent family

Date of the actual completion of the international search  5 July 2005	Date of mailing of the international search report  08.08.2005
Name and mailing address of the ISA  European Patent Office, P.B. 5818 Patentlaan 2 NL - 2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016	Authorized officer  Buchmann, G

# INTERNATIONAL SEARCH REPORT

PCT/GB2005/001179

## C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	US 6 416 776 B1 (SHAMIE NICHOLAS) 9 July 2002 (2002-07-09)  column 2, line 38 - column 4, line 9 -----	1-4,6, 10-18, 21,22

## INTERNATIONAL SEARCH REPORT

International application No.  
PCT/GB2005/001179

### Box II Observations where certain claims were found unsearchable (Continuation of item 2 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1.  Claims Nos.: 25-30 because they relate to subject matter not required to be searched by this Authority, namely:  
Rule 39.1(iv) PCT - Method for treatment of the human or animal body by surgery
2.  Claims Nos.: because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:
3.  Claims Nos.: because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

### Box III Observations where unity of invention is lacking (Continuation of item 3 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

1.  As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
2.  As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3.  As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
4.  No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

#### Remark on Protest

The additional search fees were accompanied by the applicant's protest.  
 No protest accompanied the payment of additional search fees.

# INTERNATIONAL SEARCH REPORT

Information on patent family members

PCT/GB2005/001179

Patent document cited in search report		Publication date		Patent family member(s)	Publication date
WO 9210982	A	09-07-1992		US 5047055 A US 5192326 A AT 126688 T AT 192032 T AU 654173 B2 AU 1338592 A CA 2094135 A1 DE 9190192 U1 DE 69112425 D1 DE 69112425 T2 DE 69132149 D1 DE 69132149 T2 DK 563332 T3 EP 0563332 A1 EP 0662309 A1 ES 2076028 T3 GR 3017783 T3 IE 914456 A1 JP 2530089 B2 JP 5508795 T PT 99889 A WO 9210982 A1	10-09-1991 09-03-1993 15-09-1995 15-05-2000 27-10-1994 22-07-1992 22-06-1992 05-08-1993 28-09-1995 15-02-1996 31-05-2000 16-11-2000 27-12-1995 06-10-1993 12-07-1995 16-10-1995 31-01-1996 01-07-1992 04-09-1996 09-12-1993 29-01-1993 09-07-1992
EP 0621020	A	26-10-1994		EP 0621020 A1 AU 673052 B2 AU 6052094 A CA 2121001 A1 CN 1096440 A CZ 9400946 A3 FI 941831 A HU 67437 A2 JP 6319760 A NO 941428 A US 5702454 A US 5755797 A	26-10-1994 24-10-1996 27-10-1994 22-10-1994 21-12-1994 16-11-1994 22-10-1994 28-04-1995 22-11-1994 24-10-1994 30-12-1997 26-05-1998
US 6093205	A	25-07-2000		AT 286697 T AU 743650 B2 AU 8115498 A DE 69828605 D1 EP 0991379 A1 WO 9900074 A1 JP 2002506373 T ZA 9805547 A	15-01-2005 31-01-2002 19-01-1999 17-02-2005 12-04-2000 07-01-1999 26-02-2002 10-01-2000
US 6416776	B1	09-07-2002		AU 2999900 A WO 0048532 A1 US 6746485 B1	04-09-2000 24-08-2000 08-06-2004